

# DEFINITION OF THE BOUNDARIES OF CONCEPTS «CLOSE FACES» AND «FAMILY MEMBERS» IN THE ANTI-CORRUPTION LEGISLATION OF UKRAINE

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**Introductions.** Corruption is a phenomenon that all the forces of state and non-state institutions are aimed at overcoming, because by virtue of its destructive and latent properties it is a rather dangerous phenomenon that turns the work of public authorities not into useful social activities, but into a means to satisfy their own interests. Anti-corruption in each state is carried out using various methods, means and methods of application of which are regulated by the relevant legislative norms in the field of anti-corruption legislation. The level of effectiveness of the fight against any corruption manifestations to a certain extent depends on the objectivity and completeness of the latter. Anti-corruption legislation of all countries, including Ukraine, is constituted by the norms contained in legislative and sub-legislative normative legal acts, the clarity of understanding of which determines the correctness of their application. All of the above determines the theoretical and practical interest in concretizing certain provisions of the anti-corruption legislation of Ukraine.

**Aim.** Both concepts («close people» and «family members») are used in various branches of the legislation of Ukraine, where their content is defined differently, even within spheres that are essentially similar. In this connection, the indicated categories require concretization of their content, which in turn will

contribute to the correct interpretation and application of the norms of anti-corruption legislation.

**Materials and methods.** During the study, general scientific and concrete scientific research methods were used, and its conclusions are based on the norms of the current legislation of Ukraine in various fields: anti-corruption, family and criminal law, and so on.

**Results and discussion.** Among the terms used by the Law of Ukraine «On the Prevention of Corruption» (p. 1 art. 1) are «close persons» and «family members». The first group includes persons who live together, are connected by common life and have mutual rights and obligations with the subject to which the said law applies (except for persons who have mutual rights and obligations, which with the subject do not have the character of a family), including persons who are jointly live, but are not married, and also - regardless of the specified conditions – spouse, spouse, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, sibling, sibling, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law , father-in-law, mother-in-law, father-in-law, mother-in-law, adoptive parent or adopted, guardian or guardian, person under the guardianship or trusteeship of the said subject [1]. Family members are persons who are married, as well as their children, including adults, parents, persons under guardianship and trusteeship, other persons who live together, are connected by common life, have mutual rights and obligations (except for persons, mutual the rights and obligations of which do not have the character of a family), including persons who live together but are not married [1].

The etymologically related concepts of the current regulatory acts are other concepts defined in the legislation, among them the following: «close family members» (p. 4 of the Regulation (standard) of accounting 23 Disclosure of information about related parties approved by order of the Ministry of Finance of Ukraine of 18.06 .2001 No. 303); «Close relatives and family members» (c. 1 p. 1 art.

3 of the Criminal Procedure Code of Ukraine); «close relatives» (Law of Ukraine «On state protection of court employees and law enforcement agencies»).

An analysis of the content of all the above definitions allows us to conclude that there is a fairly clear list of both close persons and family members, which do not include relatives acquired as a result of marriage (matchmakers, relatives) or spiritual (godfathers) unions). At the same time, additional interpretation requires the meaning of a phrase of categorical meaning: persons who live together are connected by common life and have mutual rights and obligations (except for persons whose mutual rights and obligations with the subject do not have the character of a family ”, that is, to close persons or members families, in the understanding of anti-corruption legislation, can be attributed to any individuals, regardless of the existence of marriage or spiritual unions between them, if the relationship between the individual and the subject indicated . P. 1 art. 3 of the Law of Ukraine «On prevention of corruption» (a person authorized to perform state functions or local government) will meet the following conditions: 1) living together; 2) the conduct of general life; 3) the presence of mutual rights and obligations; 4) the relevant rights and obligations between such persons should be of a family nature.

The acquisition of the characteristic «family» in relation to the rights and obligations of people living together and leading a joint life lies in the plane of disclosing the content of the category «family relations» and determining the circle of persons who may constitute the «family» (circle of participants in family relations).

According to art. 3 of the Family Code of Ukraine, the family is the primary and main unit of society [2]. The family consists of people who live together, are connected by a common life, have mutual rights and obligations. Moreover, the family is created on the basis of marriage, blood relationship, adoption, as well as on other grounds not prohibited by law and not contrary to the moral principles of society.

The provisions of art. 2 of the Family Code of Ukraine, which determine the scope of regulation of family relations between the relevant participants, indicate that the legislator identifies the circle of participants in family relations and family

members, which in particular include: spouses (husband, wife), children (son, daughter), adoptive parents and adopted; grandmother, grandfather, great-grandmother, great-grandfather, grandchildren (grandson, granddaughter), great-grandchildren (great-grandson, great-granddaughter); siblings; stepmother, stepfather, stepdaughter, stepson and other participants in family relationships [2].

It should be noted that the relations of the mother-in-law, father-in-law, mother-in-law, daughter-in-law, son-in-law and other relatives are not regulated by the Family Code of Ukraine: the presence of these persons in relations of kinship does not affect anything, and therefore has no legal significance (in the field of family law). In contrast, despite the fact that the Family Code of Ukraine does not regulate family relations between cousins, aunts, uncles and nieces, nephews and other relatives by descent, it nevertheless clearly defines them as family ones. It follows from the foregoing (in particular, relying on the provisions of p. 4 of art. 3 of the Family Code of Ukraine) that the unsettledness of certain relations by the Family Code of Ukraine does not deprive them of the nature of «family». Moreover, brother-in-law can become family members, which is not excluded by law. For example, in accordance with art. 64 of the Housing Code of Ukraine: other persons may be recognized as members of the tenant's family if they permanently reside with the tenant and share a common household with him [3]. A son-in-law who has settled in the wife's family as a family member acquires equal rights with other family members (art. 65 of the Housing Code of Ukraine), bears all the duties and enjoys all the rights of a family member (art. 64 of the Housing Code of Ukraine).

**Conclusions.** Thus, to close persons, in the understanding of the Law of Ukraine «On Prevention of Corruption», persons who become relatives due to the conclusion of marriage unions (in particular matchmakers, relatives) who live together, are connected by a common life, have mutual rights and obligations if the latter have the character of «family». In turn, it is impossible to recognize as close persons, those who, despite their cohabitation, connectedness by common life and the presence of mutual rights and obligations received a certain status by spiritual unions (in particular, godfather). We justify this position by the fact that the church

(religious organizations) in Ukraine is separated from the state [4] (art. 5 of the Law of Ukraine «On Freedom of Conscience and Religious Organizations»), which excludes the possibility of applying anti-corruption legislation designed to strictly regulate the legal and organizational foundations of functioning corruption prevention systems in Ukraine, the content and procedure for applying anti-corruption mechanisms and methods (measures).

### **Список литературы**

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